

APPEAL NO. 022387
FILED NOVEMBER 4, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 22, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease, with a date of injury of _____; and that the claimant had disability beginning on August 14, 2001, and continuing through August 3, 2002. The appellant (carrier) appeals, arguing that the determinations were against the great weight and preponderance of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained an occupational disease as defined by Section 401.011(34) and that she had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues of whether the claimant sustained an occupational disease and whether she has had disability. The hearing officer determined that the claimant sustained an occupational disease and that she had disability from August 14, 2001, and continuing through August 3, 2002. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)), and determines what facts have been established. We conclude that the hearing officer's determinations on the compensable injury and disability issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier contends that the hearing officer committed reversible error because he did not comment on the photographic and videotaped evidence. The statement of the evidence contains a brief statement that even though all of the evidence presented was not discussed, it was considered. The Appeals Panel stated that the 1989 Act does not require that the Decision and Order of the hearing officer include a statement of the evidence and that omitting some of the evidence from a statement of the evidence did not result in error. Texas Workers' Compensation Commission Appeal No. 000138, decided March 8, 2000, citing Texas Workers' Compensation Commission Appeal No. 94121, decided March 11, 1994. The failure to summarize all of the evidence in the Decision and Order does not indicate reversible error.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Judge